

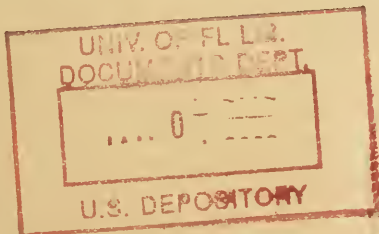
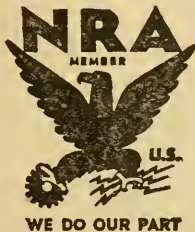
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

RAILROAD SPECIAL TRACK
EQUIPMENT
MANUFACTURING INDUSTRY

AS APPROVED ON APRIL 6, 1934



UNITED STATES
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Approved Code No. 385

CODE OF FAIR COMPETITION
FOR THE
RAILROAD SPECIAL TRACK EQUIPMENT
MANUFACTURING INDUSTRY

As Approved on April 6, 1934

ORDER

APPROVING CODE OF FAIR COMPETITION FOR THE RAILROAD SPECIAL TRACK
EQUIPMENT MANUFACTURING INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Railroad Special Track Equipment Manufacturing Industry, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved subject to the following conditions: that the provisions of Article VII, Section 2, insofar as they prescribe a waiting period between the filing with the Secretary or Assistant Secretary of the Code Authority (i.e. actual receipt by the Code Authority) and the effective date of revised price lists or revised terms and conditions of sale and payment, be and they are hereby stayed pending my further order either within a period of sixty (60) days from the effective date of this Code, or after the completion of a study of open price associations now being conducted by the National Recovery Administration.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

A. R. GLANCY,
Division Administrator.

WASHINGTON, D.C.,
April 6, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Railroad Special Track Equipment Manufacturing Industry as revised after the Public Hearing conducted thereon in Washington, D.C., on December 29, 1933 in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS AS TO HOURS AND WAGES

The Code provides for a normal maximum forty (40) hour week of six (6) days and an eight (8) hour day except as hereinafter provided.

Executives, those employed in a supervisory capacity or in engineering or laboratory work, individually receiving pay at the rate of Thirty-Five Dollars (\$35.00) or more per week and outside salesmen are exempted from the hour provisions.

Watchmen may work fifty-six (56) hours during a work week of six (6) days.

Firemen and power plant engineers may be employed forty-four (44) hours during a work week of six (6) days.

Repair men, maintenance men and shipping clerks may be employed forty-four (44) hours during a work week of six (6) days provided one and one-half ($1\frac{1}{2}$) times the normal rate of pay is paid for overtime.

Office employees may be employed forty-eight (48) hours in any one week in any one calendar month.

During any six (6) weeks in any six (6) months' period beginning January 1 and July 1 of each year, any factory employee may be permitted to work up to forty-eight (48) hours per week provided one and one-half ($1\frac{1}{2}$) times his regular rate of pay is paid for overtime.

These maximum hours shall not apply to any employee on emergency maintenance or emergency repair work involving breakdowns or protection of life or property or on emergencies occasioned by the necessity for the services of certain specially skilled employees which cannot be taken care of by the employment of additional men provided one and one-half ($1\frac{1}{2}$) times the normal rate shall be paid for overtime.

Provision is made for one day of rest in seven and the standard clause regarding employment by several employers is incorporated in the code.

The standard minimum wage rate is forty (40) cents per hour in the North and thirty-two (32) cents in the States of South Carolina, Alabama, Mississippi, Louisiana and Tennessee.

Office employees shall receive a minimum of \$15.00 per week provided that office boys and girls may be paid not less than eighty (80)

per cent of this minimum and shall constitute not more than five (5) per cent of the clerical and office employees.

Employers shall make equitable adjustments for all employees receiving more than the minima and the Code Authority will report all such adjustments to the Administrator.

The minimum rate shall apply to all employees irrespective of whether they are actually compensated on a time rate, piece work or other basis.

No person under sixteen (16) years of age shall be employed in the Industry, nor shall any one under eighteen (18) be employed in the manufacture, repair and/or handling of the products of the Industry.

GENERAL STATEMENT

The Railroad Special Track Equipment Industry is a capital goods industry and comprises the manufacture and sale of special Tee-Rail track work of carbon steel and other metals for use in railroad track made with standard rails of sixty pounds per yard and heavier. There are approximately twenty concerns in the Industry operating more than twenty-seven plants. The Industry has been seriously affected by the depression as its prosperity is in direct ratio to the purchasing power of the railroads. Available statistics show a total production for eighteen concerns in the Industry in 1928 of \$18,000,000 and for fifteen concerns in 1933 of \$1,400,000, a decrease of 92.2%.

In 1933, the Industry employed 1,621 persons, a decrease of 51.7% from 1929.

No female factory workers are employed in this Industry.

Payrolls of seventeen concerns in 1929 amounted to \$4,720,368 and \$1,046,500 in 1933, a decrease of about 78%.

Average hours per man per week for factory workers declined from 51.5 hours in 1929 to 25.3 hours in June 1933, a decrease of 50.8% and the average hourly rate for factory wage earners declined 25.7% in that time.

The adoption of the President's Reemployment Agreement increased factory employment 14.1% between June 1933 and October of the same year; factory payrolls increased 56.2% and office payrolls 9.3%. Average hours per man per week showed an improvement of 20.9%; the average hourly rates for factory wage earners increased 14% and their average weekly earnings showed an improvement of 36.5%. The proposed wage provisions will substantially increase payrolls but the hour provisions will not materially increase employment over the President's Reemployment Agreement results. Reemployment in the Industry can only be accomplished by a substantial increase in the demand for its products. The immediate prospect of the inflow of Public Works Administration funds will favorably affect this Industry.

FINDINGS

The Assistant Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter:

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including

removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Industry normally employs not more than 50,000 employees; and is not classified by me as a major industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant group is an industrial group truly representative of the aforesaid Industry; and that said group imposes no inequitable restrictions on admission to membership therein.

(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

For these reasons therefore I have approved this Code subject to the following conditions: that the provisions of Article VII, Section 2, insofar as they prescribe a waiting period between the filing with the Secretary or Assistant Secretary of the Code Authority (i.e. actual receipt by the Code Authority) and the effective date of revised price lists or revised terms and conditions of sale and payment, be and they are hereby stayed pending my further order either within a period of sixty (60) days from the effective date of this Code, or after the completion of a study of open price associations now being conducted by the National Recovery Administration.

Respectfully,

HUGH S. JOHNSON,
Administrator.

APRIL 6, 1934.

CODE OF FAIR COMPETITION FOR THE RAILROAD SPECIAL TRACK EQUIPMENT MANUFACTURING INDUSTRY

ARTICLE I—PURPOSES

To effect the policies of Title I of the National Industrial Recovery Act, this Code is established as a Code of Fair Competition for the Railroad Special Track Equipment Manufacturing Industry; its provisions shall be the standards of fair competition for such Industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The terms "President", "Act" and "Administrator" as used herein shall mean respectively the President of the United States, the National Industrial Recovery Act and the Administrator for Industrial Recovery under Title I of said Act.

SECTION 2. The term "Railroad Special Track Equipment Manufacturing Industry" as used herein means and includes the manufacture and sale of all special Tee Rail track work of carbon steel, manganese steel and/or other metals for use in railroad track made with standard tee rails of sixty pounds per yard and heavier. It includes all switches, switch points, switch stands, ground throws, frogs, crossings, stock and special connecting rails, guard rails, guard rail clamps, bridge rails, and expansion joints and repairs made and all parts furnished for above items. It shall not include electrical apparatus for operating any special track equipment, compromise joints, tie plates, rail braces, gauge rods, except when furnished in connection with the above specified items, rail except when sold in connection with the above items and on which additional work other than drilling is performed.

SECTION 3. The term "member of the Industry" means and includes but without limitation, any individual, partnership, association, corporation or other form of enterprise engaged in the Industry either as an employer or on his or its behalf.

SECTION 4. The term "employee" as used herein includes any and all persons engaged in the Industry, however compensated, except a member of the Industry.

SECTION 5. The term "employer" as used herein, includes anyone by whom any such employee is compensated or employed.

SECTION 6. The term "publish" means to make available to the public.

ARTICLE III—HOURS

SECTION 1. *Maximum Hours.*—No employee shall be permitted to work in excess of forty (40) hours in any one week or eight (8) hours in any twenty-four (24) hour period beginning at midnight, except as herein otherwise provided, nor more than six (6) days per week.

SECTION 2. *Exceptions as to Hours.*—(a) *Executives, etc.*—The provisions of section 1 above shall not apply to executives, those

employed in a supervisory capacity or in engineering, or laboratory work, individually receiving pay at the rate of thirty-five (35) dollars or more per week and outside salesmen.

(b) *Watchmen*.—Watchmen may not be employed in excess of fifty-six (56) hours per week.

(c) *Firemen and Power-Plant Engineers*.—Firemen and power-plant engineers may not be employed in excess of forty-four (44) hours per week.

(d) *Repair men, etc.*—Repair men, maintenance men, and shipping clerks may be employed up to forty-four (44) hours per week, provided at least one and one-half times their regular rate of pay shall be paid for time worked in excess of forty (40) hours in any one week or eight (8) hours in any twenty-four (24) hour period.

(e) *Office Employees*.—Office employees may be employed up to forty-eight (48) hours in any one week in any one calendar month.

(f) *Ordinary Overtime for Seasonal Periods*.—During any six (6) weeks in any six (6) months' period beginning January 1 and July 1 of each year any factory employee may be employed up to forty-eight (48) hours per week provided at least one and one-half times such employee's regular rate of pay shall be paid for hours worked in excess of forty (40) hours in any one week or eight (8) hours in any twenty-four (24) hour period.

(g) *Emergency Overtime*.—The maximum hours fixed in section 1 above shall not apply to any employee on emergency maintenance or emergency repair work involving breakdowns or protection of life or property, or on emergencies occasioned by the necessity for the services of certain specially skilled employees which cannot be taken care of by the employment of additional men, but in any such special case at least one and one-half times such employee's regular rate of pay shall be paid for hours worked in excess of forty (40) hours in any one week or eight (8) hours in any twenty-four (24) hour period.

SECTION 3. No employer shall knowingly permit any employee to work for any time which when totalled with that already performed for any other employer or employers exceeds the maximum hours permitted herein.

ARTICLE IV—WAGES

SECTION 1. No employee shall be paid less than at the rate of forty (40) cents per hour, except as hereinafter provided.

SECTION 2. No employee shall be paid less than 32 cents per hour in the following states: South Carolina, Alabama, Mississippi, Louisiana and Tennessee.

SECTION 3. The minimum wage that shall be paid by any employer to office employees, except outside salesmen, shall be at the rate of fifteen (15) dollars per week.

SECTION 4. Office boys and girls shall be paid not less than eighty (80) per cent of the minimum rate established in Section 3 above. The total number of office boys and girls receiving less than the minimum rate shall not exceed five per cent of the total number of employees engaged in clerical or office work.

SECTION 5. The rates of pay of all hourly employees covered by Section 1 and of the employees covered by Sections 2, 3 and 4 hereof

receiving more than the minimum rate as herein provided but less than at the rate of thirty-five (\$35.00) dollars per week which have not subsequent to June 16, 1933, been equitably adjusted, shall be so adjusted not later than fifteen (15) days subsequent to the effective date of this Code, provided, however, that in no event shall rates of pay of such employees be reduced. Not later than sixty (60) days after the effective date of this Code the Code Authority shall report to the Administrator the action taken by all employers in the Industry since May 1, 1933, in making such adjustments.

SECTION 6. This Article establishes a minimum compensation, irrespective of whether an employee is actually compensated on a time rate, piece-work, or other basis.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. No person under sixteen (16) years of age shall be employed in the Industry and no person under eighteen (18) years of age shall be employed in an employer's plant in the Industry in the manufacture, repair and/or handling of the products of the Industry. In any State an employer shall be deemed to have complied with this provision as to age if he shall have on file a certificate or permit duly signed by the Authority in such State empowered to issue employment or age certificates or permits showing that the employee is of the required age.

SECTION 2. Pursuant to Section 7 (a) of Title I of the Act, the Code shall be subject to the following conditions:

“(a) That employees shall have the right to organize and bargain collectively through representatives of their own choosing and shall be free from the interference, restraint or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization, or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection;

“(b) That no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and

“(c) That employers shall comply with the maximum hours of labor, minimum rates of pay and other conditions of employment approved or prescribed by the President.”

SECTION 3. Employers shall not reclassify employees or duties of occupations performed or engage in any other subterfuge for the purpose of defeating the purposes of this Code or of the Act.

SECTION 4. Every employer shall make reasonable provisions for the safety and health of his employees at the place and during the hours of their employment. Standards for safety and health shall be submitted by the Code Authority to the Administrator for approval within six months after the effective date of this Code.

SECTION 5. Within each State the Code shall not supersede any laws of such State imposing more stringent requirements on employers, regulating age of employees, wages, and hours of work or general working conditions than are provided under this Code.

SECTION 6. All employers shall post complete copies of this Code in conspicuous places accessible to all employees.

ARTICLE VI—ADMINISTRATION OF THE CODE

SECTION 1. There shall be forthwith established a Code Authority of one representative from each member of the Industry complying with the requirements of this Code and sustaining its reasonable share of the expense of its administration. Each member of the Code Authority shall have as many votes as the member of the Industry represented by him is entitled to pursuant to the provision of Section 4 of this Article. In addition the Administrator may appoint not to exceed three members of the Code Authority without vote. The members who may be appointed by the Administrator, together with the Administrator, shall be given notice and may sit at all meetings of the Code Authority.

SECTION 2. Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by complying with the requirements of this Code and sustaining their reasonable share of the expense of its administration. Such reasonable share of the expense which shall be assessed by the Code Authority shall bear the same relation to the total thereof as the number of votes pursuant to the provisions of this Code at the time of any such assessment shall bear to the total number of votes that might be cast. Failure of any assenting member to pay the amount of any assessment against such member for a period of thirty days after the date on which it became payable shall prohibit such member from participating in the activities of the Code Authority.

SECTION 3. The Code Authority may from time to time appoint such committees and/or agents as it shall deem necessary or proper in order to effectuate the purpose of the Code, and it may delegate to any such committee and/or agent generally or in particular instances such of the powers and duties of the Code Authority under the Code as it shall deem necessary or proper in order to effectuate such purpose but nothing in this section shall relieve the Code Authority from the responsibilities imposed upon it by the Code.

SECTION 4. At each meeting of the members entitled to vote each member thereof shall have as many votes as shall equal the quotient obtained by dividing by 500 the aggregate amount in net tons of products shipped by said member for consumption in the United States during the preceding calendar year. Fractions in such quotients shall be disregarded; provided, however, that each member shall have at least one vote. All questions as to the number of votes which each member shall be entitled to cast at any meeting of the members thereof shall be determined by the Code Authority. Any member of the Industry who shall be entitled to vote at meetings of the members may vote by proxy in writing, duly executed by said member, and filed with the Code Authority. Any such proxy may be for a specified meeting or be a general proxy for any or all meetings that may be held until such proxy shall have been revoked by an instrument in writing duly executed by the member which gave such proxy and filed with the Code Authority.

SECTION 5. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Author-

ity shall (1) impose no inequitable restrictions on admission to membership, and (2) submit to the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership or organization, as the Administrator may deem necessary to effectuate the purposes of the Act.

SECTION 6. In order that the Code Authority shall at all times be truly representative of the Industry, and in other respects comply with the provisions of the Act, the Administrator may prescribe such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative, may require an appropriate modification in the method of selection of the Code Authority.

SECTION 7. If the Administrator shall determine that any action of a Code Authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such Code Authority or agency pending final action which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty days' notice to him of intention to proceed with such action in its original or modified form.

SECTION 8. The Code Authority shall have the following further powers and duties:

(a) To use its best efforts to insure the execution of the provisions of this Code and provide for the compliance of the Industry with the provisions of the Act.

(b) To adopt bylaws and rules and regulations for its procedure and for the administration of the Code.

(c) To obtain from members of the Industry through an impartial agency such information and reports as are required for the administration of the Code and to provide for submission by members of such information and reports as may be necessary for the purposes recited in Section 3 (a) of the Act; which information and reports shall be submitted to the Administrator and/or such Government agencies as the Administrator may designate provided that nothing in this Code shall relieve any member of the Industry of existing obligations to furnish reports to any Government agency. All statistics, data and information filed pursuant to the provisions of the Code, shall be deemed confidential and shall not be disclosed to any member of the Industry in other than composite form, unless disclosure in detail shall be deemed to be essential in order to effectuate the policies of Title I of the Act.

(d) To take such action as may be available to it to secure from members of the Industry an equitable and proportionate payment of the reasonable expenses of maintaining the Code Authority and its activities subject to review by the Administrator.

(e) To cooperate with the Administrator in regulating the use of any N.R.A. insignia solely by those members of the Industry who are complying with this Code.

(f) The Code Authority shall be deemed to have discharged its full duty under the Code with respect to any violation or alleged violation of the Code when it shall have exercised such powers as

are at the time legally conferred upon it and in the event of its inability to legally enforce compliance with the provisions of the Code shall have certified the facts available to it with respect to such violation or alleged violation to the Administrator or other appropriate Governmental Authority.

ARTICLE VII—TRADE PRACTICES

SECTION 1. Wherever used in the Code the terms hereinafter in this Section 1 defined shall, unless the context shall otherwise clearly indicate have the respective meanings hereinafter set forth. The definition of any such term in the singular shall apply to the use of such term in the plural and vice versa.

(a) The term "period of free credit" means the period of time between the date of a shipment of a product to the purchaser of such product and the date from and after which such purchaser shall be required to pay interest on the purchase price of such product or any part thereof which shall not have been paid prior to the expiration of such period.

(b) The term "date of invoice" means the date of the invoice of any product.

(c) The term "discount for early payment" means the amount of the deduction allowed for the payment of an invoice of products before the expiration of the period of free credit in respect thereof.

SECTION 2. Each member of the Industry shall within ten (10) days after written request by the Code Authority, and subject to the provisions of Section 4 hereof, publish and file with the Secretary or Assistant Secretary of the Code Authority a schedule of its prices applying to acknowledged standard frogs, switches, standard parts thereof and appurtenances. From and after the expiration of such ten (10) days, each member shall publish and at all times maintain on file with the Secretary or Assistant Secretary of the Code Authority a list showing selling prices for such standards and shall not make any change in such prices except by the publishing and filing by such member with the Secretary or Assistant Secretary of the Code Authority of a new list of such prices, which new list after filing shall become effective in seven (7) days but not prior thereto. The prices so filed shall be f.o.b. such member's plant or plants, and except to meet existing competition shall be not less than the cost of such product to such member determined by a method to be established by the Code Authority and approved by the Administrator.

All prices so filed shall be published.¹

SECTION 3. No product designated in any member's list of prices so filed shall be sold by such member of the Industry to any purchaser.

(a) at a price f.o.b. any of its plants other than the applicable price filed by such member at said plant, or

(b) at a price f.o.b. point of delivery to the purchaser other than such member's filed price with carrying charges at published tariff rates added; provided, however

(c) That selling below such prices filed by such member to meet competition by a competitor whose prices do not violate this Code

¹ See Paragraph 2 of order approving this Code.

on such designated products on which such member or any member has filed prices (i.e., selling at a price below such filed prices which will give the purchaser the same net price as that provided by the price of any other member of the Industry, taking into consideration any advantages accruing to the purchaser on account of its participation in transportation charges) shall not constitute a violation of the Code.

SECTION 4. The Code Authority subject to the disapproval of the Administrator shall determine what are acknowledged standard frogs, switches, standard parts thereof and appurtenances purchased or being considered by two or more purchasers within the contemplation of Section 2 of this Article on which prices shall be filed.

SECTION 5. Products of the Industry that are not determined as standard by the Code Authority subject to the disapproval of the Administrator are to be regarded as "special" and be subject to the following conditions: No member of the Industry will sell any special product to any purchaser (a) at a price f.o.b. any of its plants less than the cost of such product, determined by a method to be established by the Code Authority subject to the approval of the Administrator to such member at said plant, or (b) at a price f.o.b. point of delivery to the purchaser less than the said cost of such product to such member with carrying charges at published tariff rates added; provided, however, (c) that selling below cost to meet existing competition in price by a competitor whose prices do not violate this Code on products of equivalent specifications shall not constitute a violation of the Code; and, provided (d) that selling below cost in order to dispose of any obsolete items or materials shall not be deemed a violation of the Code.

SECTION 6. Whenever any member of the Industry shall file with the Code Authority a written complaint alleging that any other member of the Industry has made a sale of a product at a price which constitutes a violation of the Code and the Code Authority shall declare by a vote of three-fourths of all of its members entitled to vote that said complaint appears to be justified the Code Authority shall have power to investigate the price at which said sale shall have been made. No member of the Code Authority shall vote upon any question involving a violation of the Code by the member of the industry represented by such member.

SECTION 7. For all the purposes of these sections 1 to 7 a delivery of any product made pursuant to a contract of sale shall be regarded as a sale thereof made at the time of the making of such contract and a sale made by any member of the Industry indirectly through any affiliated company of such member shall be deemed to be a sale made by such member.

ARTICLE VIII—UNFAIR PRACTICES

The following described acts shall constitute unfair practices and any member of the Industry who shall directly or indirectly through any officer, employee or agent or representative, knowingly use or employ any such unfair trade practice shall be guilty of a violation of the Code.

(a) Giving, permitting to be given, or directly offering to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal or party. This provision shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

(b) Procuring otherwise than with the consent of any member of the Industry any information concerning the business of such member which is properly regarded by it as a trade secret or confidential within its organization, other than information relating to the violation of any provisions of the Code.

(c) Using or substituting without adequate compensation any more costly materials superior in quality to that specified by the purchaser of any product or using or substituting any material or any method of manufacture not in accord with any applicable law, rule or regulation of any governmental authority.

(d) No member of the industry shall secretly directly offer or make any payment or allowance of a rebate, refund, commission, credit, unearned discount or excess allowance, whether in the form of money or otherwise, nor shall a member of the industry secretly offer or extend to any customer any special service or privilege not extended to all customers of the same class, for the purpose of influencing a sale.

(e) Publishing advertising (whether printed, radio, display or of any other nature), which is misleading or inaccurate in any material particular, or in any way misrepresenting any goods (including but without limitation its use, trade-mark, grade, quality, quantity, origin, size, substance, character, nature, finish, material, content or preparation) or credit terms, values, policies, services, or the nature or form of the business conducted.

(f) Attempting to induce the breaching of an existing contract between a customer or source of supply; nor shall any such member interfere with or obstruct the performance of such contractual duties or services.

(g) Aiding or abetting any individual, firm, association, corporation or other form of enterprise in any unfair practices.

(h) Making or giving to any purchaser of any product any guarantee or protection in any form against decline in the market price of such product.

(i) Knowingly withholding from or inserting in any quotation or invoice any statement that makes it inaccurate in any material particular.

(j) Branding or marking or packaging any goods in any manner which is intended to or does deceive or mislead purchasers with respect to the brand, grade, quality, quantity, origin, size, substance, character, nature, finish, material content or preparation of such goods.

(k) Rendering to any purchaser of any product in or in connection with the sale of such product any unusual service, unless fair compensation shall be paid by such purchaser.

(l) Failing to invoice products manufactured pursuant to order or contract after such products have been held for thirty days after specified shipping date.

(m) Accepting an order for the products of the Industry without a specified delivery date within twelve months from the date of order except orders in connection with specific construction contracts extending beyond a period of twelve months from date of order.

(n) Shipping of goods on consignment, except under circumstances to be defined by the Code Authority, subject to approval by the Administrator, where peculiar circumstances of the Industry require the practice.

(o) Postdating and Predating.—Postdating or predating of quotations, orders, invoices, statements, or other sales documents.

(p) The standard terms of credit and payment shall be as hereinafter set forth, provided, however, that the Code Authority, subject to the disapproval of the Administrator, shall have power from time to time to modify, waive or supplement such standard terms of credit and payment by regulations, a copy of which shall be filed with the Secretary and mailed to each member of the Industry. Except in the case of sales made to, or contracts of sale entered into with government agencies, in respect of which such government agencies shall impose other terms of credit and payment, no member of the Industry shall allow more liberal terms of credit and payment than those at the time in effect under this Section and such regulations. Except as aforesaid all invoices for products sold by any member of the Industry after the effective date of the Code shall bear interest from and after the expiration of the period of free credit at the rate of six per cent (6%) per annum.

Maximum Rates of Discount for Early Payment: In the case of products shipped from plants located east of the Mississippi River to Pacific Coast Ports and which shall be invoiced from such plants— $\frac{1}{2}$ of 1%, if the invoice of such products shall be paid within 25 days from the date of such invoice; in all other cases— $\frac{1}{2}$ of 1%, if the invoice of such products shall be paid within 10 days from the date of such invoice; provided, however, in the latter cases that any member of the Industry may allow such discount of $\frac{1}{2}$ of 1% for payment within 10 days on the basis of settlements three times in each month, as follows:

(1) On invoices for products dated from the 1st to the 10th, inclusive, in any month, such discount may be allowed on payment of such invoices on or before the 20th of such month;

(2) On invoices for products dated from the 11th to the 20th, inclusive, in any month, such discount may be allowed on payment of such invoices on or before the 30th of such month; and

(3) On invoices for products dated from the 21st to the end of any month, such discount may be allowed on payment of such invoices on or before the 10th of the next following month.

Any discount allowed in accordance with the provisions of this Section shall apply only to the invoiced value of the products specified therein and not to any part of the transportation charges on such products.

Maximum Periods of Free Credit: In the case of products shipped from plants located east of the Mississippi River to Pacific Coast



ports and which shall be invoiced from such plants—45 days; in all other cases—30 days.

ARTICLE IX—EXPORT TRADE

SECTION 1. No provision of this Code relating to prices or terms of selling, shipping or marketing, shall apply to export trade or sales or shipments for export trade.

SECTION 2. Subject to the approval of the Code Authority, the exceptions established by this Article shall apply also to sales or shipments of products of this Industry actually used and directly traceable to manufacture for export trade.

ARTICLE X—AMENDMENTS—TERMINATION

SECTION 1. The Code may be amended at any time in the manner hereinafter provided. Amendments may be proposed by the Code Authority by vote of a majority of the members thereof at the time in office or other representative group of members of the Industry. Amendments so proposed shall be submitted to a meeting of the assenting members of the Industry which shall be called for such purpose and be based upon application to the Administrator and such notice as he may specify. If at such meeting members having the right to cast at least 75% of all the votes that might be cast at such meeting, if all the members were present thereat, shall vote in favor of the adoption of such amendment, such amendment shall be submitted by the Code Authority to the Administrator. Every such amendment shall take effect as a part of the Code upon the adoption thereof by the said members of the Industry, as above provided, on the approval thereof by the Administrator.

The Code shall continue in effect until June 16, 1935, or the earliest date prior thereto on which the President shall by proclamation or the Congress shall by Joint Resolution declare that the emergency recognized in Title I of the National Industrial Recovery Act is ended.

SECTION 2. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule or regulation issued under said Act.

ARTICLE XI—GENERAL PROVISIONS

No provision of this Code shall be so applied as to permit monopolies or monopolistic practices or to eliminate or oppress or discriminate against small enterprises.

ARTICLE XII—EFFECTIVE DATE

This Code shall become effective on the date upon which the Code is approved by the President, pursuant to the National Industrial Recovery Act.

Approved Code No. 385.
Registry No. 1502-1-01.